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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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AUG 22 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In The Matter Of )  
 )  
Implementation of Section ) PP Docket No. 93-253  
309(j) of the Communications )  
Act - Competitive Bidding, )  
Fifth Report and Order )

To: The Commission

PETITION FOR RECONSIDERATION OF  
THE SMALL BUSINESSES PCS ASSOCIATION

The Small Business PCS Association ("SBPCS") hereby responds to the Commission's Fifth Report and Order (FCC 94-178, released July 15, 1994) in the above-captioned proceeding. The SBPCS was formed to be a voice for the small businesses that are actively participating in the PCS industry. The association membership is composed of sixty-five small, minority, and woman-owned telecommunications companies that plan to be PCS operators and participate in the upcoming PCS broadband auctions. The organizer of SBPCS is kycom, Inc. kycom is a small entrepreneurial company that has been established to provide PCS service in the state of California and other parts of the country. The company has been granted an experimental license to conduct market trials involving 3000 customers in San Jose,

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Sacramento, and Los Angeles, California. Work is progressing to implement these trials in 1994.

First of all, the Commission is to be congratulated on the bold and forward looking steps it has taken toward making it possible for Designated Entities to participate in broadband PCS. As we have seen in the narrowband PCS auctions, it is not possible for small firms to bid successfully in auctions against large companies and the establishment of the Entrepreneurs' Blocks has been shown to be absolutely necessary.

Despite the many positives in the Fifth Report and Order there are some areas where participation by Designated Entities is made more difficult and their chances of success after licensing are diminished. These areas center around interest rates, licensing delays relative to large company MTAs, discouragement of small business participation in the top 50 markets, and allowing a single entity to accumulate the top 98 30 MHz BTAs.

#### **A. Interest Rates for Installment Payments**

Interest rates for Entrepreneurs Blocks have been set between the ten year Treasury Note Rate and the ten year Treasury Note rate plus 2.5 percent. When it is considered that many of the most desirable Entrepreneurs' Block BTAs will sell for many tens of millions of dollars at auction, the interest charges alone will be millions of dollars each

year. These charges are in addition to the interest that most Designated Entities will be paying to equipment vendors to finance their infrastructure.

SBPCS recommends that interest rates for installment payments be eliminated. This is not a case where a loan is granted to set up a new business. A small business must obtain that loan from other sources. Installment payments are being paid by a small businesses to the government for frequency spectrum that many of our competitors were given at no charge. It seems that also being required to pay interest is blatantly unfair. At a minimum, the interest charged should be lowered to a level consistent with other government programs that encourage participation by smaller businesses. For example, programs in the Department of Agriculture, Department of Housing and Urban Development, and REA usually charge interest rates between 2 and 3%.

**B. Entrepreneurs' Block Licenses Could Be Delayed Relative to Large Company MTAs**

The schedule for auctioning licenses calls for auction of the 30 MHz MTAs before the 30 MHz Entrepreneurs' Block. The danger here is the possibility of a significant head start for the large company MTA license holders compared to the Entrepreneur Block license holder. The MTA license holders already have the advantages of much larger financial resources, people resources, and, probably, existing

infrastructure. Must we also give them a two to four month head start in the marketplace?

The goal is for small businesses to not only be able to win a license at auction but also to succeed in the PCS business. To do this small businesses should be allowed to start the race to deploy a system either before the large NTA license holders or, worse case, at the same time. Therefore SBPCS is proposing that, at a minimum, all 30 MHz licenses be issued at the same time. As a practical matter, to guard against unreasonable delay, it may be desirable to exempt from this requirement license applications against which a substantive Petition to Deny has been filed.

**C. Limit Entrepreneur Block Licenses that Can Be Awarded to Any One Entity**

The Fifth Report and Order limits the number of Entrepreneur Block licenses that can be obtained by any one entity to 10% of the total Entrepreneur Block licenses. This would allow a single entity to acquire the top 98 30 MHz BTAs. This is not what Congress intended by diversity of ownership.

The SBPCS recommends that the maximum number of Entrepreneur Block licenses purchased by a single entity be limited to licenses that cover no more than a total of 10% of the national population, approximately 25 million POPs.

**D. Top 50 Entrepreneurs' Block BTAs Directed to Companies > \$75 million**

The Fifth Report and Order allows installment payments for companies between \$75 and \$125 million that purchase Entrepreneurs' Block licenses for the 50 top BTAs. This provision has the effect of making the 50 top markets even more appealing to these larger companies and forcing small businesses out of these markets.

According to the Fifth Report and Order, companies with more than \$75 million in revenue are given the opportunity to pay through installment payments for the top 50 BTA markets. The top 50 markets are by far the most desirable markets for PCS because the nature of PCS makes the service much more profitable for markets with the highest population densities. Offering larger companies the further incentive of installment payments for these markets makes them almost irresistible to a class of companies which has the greatest resources of any companies eligible for the Entrepreneurs' Blocks. Therefore small businesses will be forced out of the top 50 BTA markets.

The idea of installment payments is to help small, minority, and women-owned companies to establish a foothold in PCS. The justification for providing these incentives for companies not in this class is certainly not clear and the FCC should not take any action that drives small businesses out of the most desirable Entrepreneurs' Block

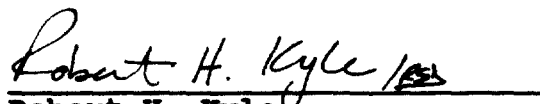
licenses. Therefore, the SBPCS Association recommends that installment payments be eliminated for companies greater than \$75 million in revenue.

**F. Conclusion**

SBPCS firmly believes that the creation of the Entrepreneurs' Blocks is going to be an unparalleled opportunity for the small, minority, and women-owned businesses of the country. But the real beneficiary from these opportunities will be the country at large through lower cost wireless telephone service and diversified telecommunications industry ownership which encompasses a wide range of our population. In the course of adopting the final rules that cover these activities, the FCC should not forget the original reasons for Entrepreneurs' Blocks. The Commission should resist attempts from some quarters to water down the participation of true Designated Entities and to replace them with existing medium and large-sized companies.

Respectfully submitted, --

**THE SMALL BUSINESS PCS ASSOCIATION**



Robert H. Kyle  
President, kycom, Inc.  
96 Hillbrook Drive  
Portola Valley, California 94028

Its Chairman